

1976 S.C. Op. Atty. Gen. 186 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4356, 1976 WL 22975

Office of the Attorney General

State of South Carolina

Opinion No. 4356

May 27, 1976

*1 Budget sub-committees of school boards may meet in non-public executive sessions for the purpose of discussing and drafting budget proposals, where any final budget will be discussed publicly and voted on by the full school board before being adopted.

TO: Georgetown County School Board Attorney

QUESTION PRESENTED:

Can a school board sub-committee meet informally and privately in executive sessions for the purpose of discussing and drafting budget proposals, where such proposals will be discussed publicly and voted on by the full board before being enacted?

STATUTES, CASES, ETC:

Code of Laws of South Carolina, 1962, as amended, Section 1-20 et seq.,

Cooper, et al., v. Richland School District One, et al., Memorandum of Opinion and Order, filed January 23, 1976, Richland County Court of Common Pleas.

DISCUSSION OF ISSUES:

A county school board has designated a committee of its members to prepare budget proposals for the consideration of the full board. The proposed budget will be considered by the entire board in a public meeting, and voted on before being adopted. The question has been raised as to whether the sub-committee meetings are required to be open to the public under South Carolina's Freedom of Information Act, Code Section 1-20, et seq.

A similar issue was before Judge Moss in the Richland County Court of Common Pleas. In that case the school board refused to release drafts of proposed budgets, on the grounds that the documents were incomplete working papers and incomplete drafts of materials utilized for staff administrative briefings on proposals and revisions to budget items. Judge Moss agreed with the school board and held that the materials were not open to public inspection because they were materials for administrative briefings and protected under Code Section 1-20.3.

Judge Moss went even further in his Order and found that if a meeting is accorded executive session status under the Act, it is illogical to extend such a confidential privilege and then subsequently require the release of documents containing the privileged information. The Judge held that Section 1-20.2, dealing with access to public records, must be construed in conjunction with Section 1-20.3 in order to determine the true intent and spirit of the Act.

It should also be noted that many of the elements of proposed budgets would be eligible for executive session privilege in their own right. These subjects might include employment, appointment, compensation, promotion, demotion or release of an employee.

Based on the reasoning used in Judge Moss' Order, since the school board is able to meet in executive session under Section 1–20.3 to receive administrative briefings and committee reports and since committee reports are not open to public inspection, then the meetings in which such committee reports are prepared would also be subject to the executive session privilege. Therefore, such committee meetings would not be open to the public under the Freedom of Information Act.

CONCLUSION:

*2 A school board sub-committee may meet in non-public executive sessions for the purpose of discussing and drafting budget proposals to be presented to the full board, when any final budget will be discussed and voted on publicly by the full board before being adopted.

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